

THE CONSENSUS PARTIES' PROPOSAL: A THINLY DISGUISED PRIVATE SALE OF 16 MHZ OF CLEAN AND CONTIGUOUS SPECTRUM

- The Consensus Parties' Proposal is not an exchange of spectrum by Nextel Communications, Inc. ("Nextel"), Nextel Partners, Inc. ("Nextel Partners"), its corporate affiliate, and licensees with whom Nextel has executed a purchase option agreement or a management agreement ("Nextel Control Group"). Rather, it is a sale of 16 MHz of Clean and Contiguous Spectrum.
- This private sale of such Spectrum clearly is established by the operation of the Consensus Parties Proposal in numerous EA markets.
- For the Consensus Parties' Proposal to constitute a "kHz-for-kHz" exchange, it must involve a movement methodology that produces its results separate and apart from Nextel's promised contribution of \$850 million.
- In testing the Consensus Parties' Proposal to determine whether such a movement methodology exists—
 - ☐ **Does EA and Site-Licensed Spectrum move as a group to the replacement spectrum?** *No. The Consensus Parties' Proposal creates a new Non-Cellular Block and Cellular Block whereby such licenses are separated.*
 - **Is the New Cellular Block (former NPSPAC Channels and 1.9 GHz band spectrum) allocated based upon the type of license held?** *No. The Consensus Parties allocate all of the new Cellular Block Spectrum to the Nextel Control Group regardless of the type of Spectrum it holds in a particular Economic Area ("EA") market and Non-Nextel Licensee move to the Non-Cellular Block regardless of the type of spectrum it holds.*
 - ☐ **Is the new Cellular Block Spectrum allocated based upon how a licensee operates its channels?** *No. The Consensus Parties formulate a new Cellular Deployment Test, which it applies only to Non-Nextel Control group licensees. However, if a Non-NCG EA licensee satisfies this new Test, it moves to the Upper 200 Channels beginning with Channel 401, but on a geographic "footprint" basis only. By contrast, the Nextel Control Group's Spectrum moves on a 1:1 Clean basis to the former NPSPAC Channels and 1.9 GHz band spectrum.*
 - **Is the new Cellular Block allocated based upon how much 800 MHz band spectrum is held by a particular licensee?** *No. The Consensus Parties' Proposal fails to recognize even EA market boundaries and allocates more "replacement spectrum" to the NCG than it previously held in the 800 MHz Band.*
 - **Are Non-Nextel Control Group licensees "made whole" as are the Nextel Control group licensees?** *No. Under the Consensus Parties' Proposal, Nextel's 700 MHz Guard Band and 900 MHz SMR spectrum is added to the rebanding mix and "eats up" all of the remaining available new cellular Block Spectrum thereby leaving nothing for Non-NCG licensees.*
 - **At the conclusion of the Consensus Parties' rebanding, does any Non-Nextel Control Group licensee hold spectrum in the former NPSPAC Channels and/or 1.9 GHz band spectrum?** *No.*

- **Is Nextel the only 800 MHz licensee that needs to be moved in order to accommodate Public Safety licensees?** *No. Many commercial and private wireless licensees are present in the 800 MHz band that are moved under the Consensus Parties' Proposal.*
- **Why aren't these numerous commercial licensees also moving to the former NPSPAC Channels and/or 1.9 GHz band spectrum?** *The only difference between them and Nextel is that they are **not** promising to contribute up to \$850 million to pay the total relocation costs of the Consensus Parties' Proposal.*
- Conclusion of the testing is that the Consensus plan fails to establish a kHz for kHz exchange, but it does establish that they are asking the Commission allocate new spectrum to Nextel in exchange for the promise to pay money.